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THE LIBEL CASE.

Fitch vs. Thrum—The Medical Testimony
—Leprosy, its Cause and Character—
Testimony for the Defense—Argu-
ments of Counsel—Judge's Charge—
The Verdict.

Dr. N. B. Emerson, called—Am a physician
practicing in Honolulu; was educated
for the profession of medicine in Boston and
New York. In Harvard Medical College
where I studied the course was three years,
it is now four in the College of Physicians
and Surgeons in New York; the term at
Bellevue was three years, and is now four. I
have been practicing here between
four and five years; I have paid special at-
tention to the subject of leprosy; I believe
the disease to be contagious by intimate
contact; in about the same degree, and in
the same manner that syphilis is; I think
that kissing would be a means of con-
tagion. If either party had leprosy about
the mouth, and the other party had ordi-
nary sensitive mucous membranes also by
lying on the same mat; if there were pim-
ples, scabs, etc., there would be dan-
ger of their being inoculated; think the
habits of the Hawaiians are such as to lay
them open to the attacks of the disease;
many of them, I think, are lacking a proper
fear of the disease; some do fear it; there is
no identity between leprosy and syphilis;
there are lepers now at large; from the fact
that I repeat them occasionally I should say
that there were a considerable number at
large.

Cross-examination—I saw on the street
and recognized one who had leprosy; I can-
not be sure of meeting in the last thirty
days more than two cases; I have not vis-
ited the prison yard for the purpose of see-
ing lepers lately; our college gives credit
to another for the time spent there by a stu-
dent; I consider Bellevue College one of the
best; during the regular terms of a college
there is a summer course; that is considered
rather extra, a student might duly attend
the winter course, and passing the exami-
nation obtain a diploma; it is absolutely
necessary that a student should embrace
the curriculum in his studies. (To the
Court.) I doubt if Bellevue would grant a
diploma for a course not carried on in a
regular college, there might be exceptions;
the term now at Boston Medical School is
eight months; now in New York I think it
includes the summer term; I think the av-
erage in the colleges is five months in each
year; I know Jefferson College, I should say
that if a student had studied under a physician
before entering a college, I cannot say as
to whether this previous course would
weigh with the faculty; I could not now
name a reputable college that would grant
a diploma for less than three years course;
syphilis is not generally supposed to be con-
tagious in the "late" stage. I do not re-
cognize the same stages in leprosy; I recog-
nize a difference in the degree of contagion,
in leprosy; lepers are always dangerous; I
can hardly give you a mathematical state-
ment in the supposition cases; I should say
that there was less danger from the
ulcer cured leper than from another; in
case such a patient should continue in this
improved condition for ten years, I should
say it was a rare case; have not had the
means of examining into cases in Norway;
it has been said that cases have been re-
ported in that country as cured; have not
reports from India of cases; I had charge of
the leper settlement for a little less than
two years; was there part of the time; there
were some thirty or forty native residents
there who were not lepers; none of these
were seized with leprosy to my knowledge;
there was no particular formula of reme-
dies; what would relieve one case would
not benefit another; have visited the
branch hospital within two months; was
not in Court during the examination of Dr.
Trousseau yesterday; without reference to
any books, or opinions of others, I should
say that two different cases, I should say
that there was less danger from the
length of time of incubation of leprosy; I
have found no cases and do not think I have
read of any where an improved condition
remained for five years; there may be cases
where leprosy shows itself in a very limited
manner for five years; it is a feature of this
temporary state that sores wholly heal up,
with or without treatment; this healing
process may take place while marks of the
disease are still present.

Mr. McCartney, sworn—Am an apothecary;
have been in the business for ten
years; have been under tuition of a man of
large experience; know Dr. Fitch; have put
up prescriptions used by him in his private
practice; iodine of potassium seemed to be
the prevailing ingredient; cannot recall an
instance where this drug was not present
in the compound for internal use; have
heard Dr. Fitch talk of leprosy very fre-
quently, and say he could cure it; shortly
after his coming to Honolulu from Kanai,
in the drug store of Palmer & Co. "I can
cure it, and will cure it" were his exact
words; he has had me test urine for him;
on one occasion he said that he either did
not know how, or had forgotten how to test.

Cross-examination—I may have put up a
prescription that did not contain iodine
of potassium; all utterances that the doctor
has made in regard to leprosy were made in
a general way.

Albert Smith, sworn—I have never been
educated at any regular college, have read
medicine works constantly for twenty years;
have read a great deal on leprosy; I have
seen and treated cases in the outer districts;
been called upon to do so in the absence of
physicians; have been associated with phy-
sicians in cases; I wrote the article shown
me and published in the Saturday Press of
April 21; I have never talked with Dr.
Fitch on any other medical subjects than
those of leprosy and syphilis and catarrh;
Dr. Fitch told me he thought leprosy and

syphilis are one and the same disease; he
said he could cure leprosy; did not say tem-
porarily; he quoted a Norway authority
as having cured a case, and he could do the
same; he said he thought he knew more
about leprosy than any one else in the
world; that he would prove to the jury that
his theory was correct; he said he did not
believe that leprosy was contagious;
he thought the patients should be segre-
gated; he explained that he thought syphilis
patients should be segregated as well as
lepers; that the two diseases were the one
and the same thing; could not say when
the work of segregating lepers was actively
commenced; he never talked with me on
any other subject than that of leprosy, ex-
cept on the subject of catarrh; I have been
at the dispensary with him two or three
times; his method of examining patients
was to pronounce them all to be either
leprosy or syphilis; in case of fissure of
the tongue it was syphilis; same for
leprosy; I noticed that most of the prescrip-
tions contained iodine of potassium; think
he had seven prescriptions; he wrote a cer-
tain number and they were taken; I
thought he had heard disease, mean-
ing a bottle bearing the same number; I could
not say how long he devoted to the ex-
amination of a patient; may be half a min-
ute, or a minute; do not remember his ex-
amining the pulse or chest; in one case,
that of an old man who appeared to me to
have heart disease; there was a fissure in
the tongue; the doctor was going to treat
him for syphilis; I said the man might
have heart disease, and that this medicine
might affect him injuriously only; asked him
why he did not examine the chest, and he
said he had no time; I saw him pronounce
several patients leprosy whom I did not
think were such. (Objections were raised to
the line of questions as being leading, and
questions were withdrawn.) He merely told
me they were lepers; showed me spots on
their arms, and I think he told me that he
had not tested them; he gave the old man,
whom I thought had heart disease, medi-
cine containing iodine of potassium. The
witness said that in the case of Greenwell,
he, the witness, had told him he had not
catarrh; Greenwell had gone to Dr. Fitch,
hearing of his reputation as an oculist; and
the doctor had asked him if he wanted his
eye operated upon; he told him he did; Dr.
Fitch asked me what was the difference be-
tween amarois and catarrh; I understood that
the doctor did not know the difference be-
tween the two diseases; I have been to the
Branch Hospital with Dr. Fitch; think
some time during this year; saw the whole
affair; saw Mr. Sumner; the doctor took me
to him; I expressed surprise at that being
the man; he asked me if I didn't consider
him a cured leper; I avoided answering
that the man was a leper; I think I sug-
gested that if he continued improving he
might be discharged after a time; he spoke
of him as a cured leper; I saw the man
"Sam" on board the Okelike a few days
after his discharge; I think he was a leper;
had tubercle under one eye and a sore
finger; I knew this man while in Lahaina,
I think I advised him to go to Dr. Fitch; I
think he had leprosy for about a year; I do
not know that he was a leper; I am not an
expert; in regard to the segregation of lepers
at the Branch Hospital, the doctor told me
that patients sometimes climbed the walls
and escaped; he had proposed to build a
second fence, but was thwarted in his plans
by Mr. Gibson; he told me that patients
had gone out on orders from the President
of the Board of Health to visit their friends;
he could not help it; Dr. Fitch told me that
he proposed to bring a bill before the Legis-
lature to make him medical director of the
whole islands at a salary of \$7,000 per an-
num; he proposed to nominate either Dr.
Hagan or Rodgers as his assistant; asked
me to use my influence with native men-
bers; do not know that such a bill was
passed; he mentioned the identity of
leprosy and syphilis as being his own dis-
covery; in reference to the letter of Dr.
Fitch published in the Saturday Press of
April 14, he asked me if I was going to
answer it; I told him I didn't know
whether I should answer it or not; said he
had talked with me about individuals in
reference to this disease; no other physician
has ever talked with me about the secret
illness of other people; his talk was
about leprosy.

Cross-examination—Could not say when I first
became acquainted with "Sam"; think it
about a year ago that I noticed he had leprosy;
advised him to go to Dr. Fitch; had a certain
faith in Dr. Fitch's energy; believe that disease
to be amenable to treatment; saw "Sam" at
the branch hospital; saw a slight improvement in
his condition; examined him occasionally; have
seen other cases of leprosy; have seen a
statement in the Pacific Commercial Advertiser
that certain lepers had been discharged as
cured; among them was "Sam"; I went once
with Dr. Brodie to examine a patient; the only
remark that I heard Dr. Brodie make was that
there was a pretty bad case; had no other object
in going there than to examine this case; the pho-
tograph apparatus is used at the branch hospital
to take photographs of cases; I followed up some
cases; cannot mention any particular cases; saw
two or three who presented a visible improve-
ment in their condition; presented by a
picture; I have seen some apparently cured
cases by Dr. Hildebrand; one case in town has
shown no signs of leprosy for the last fourteen
years; he was a pretty bad case; I examined him
in Kohala and found no signs of leprosy on him.
In the case of the old man spoken of as perhaps
having heart disease, I have not followed it up;
do not know whether he is alive or dead; Dr.
Fitch had a certain form of questions, including
that in reference to whether he had syphilis or
not; could not say whether he neglected to ask
this question in this case or not; I was formerly
in the service of Mr. Davidson; I have written for
the Gazette and Saturday Press; I have no salaried
position on the Saturday Press; I got so
much a column.

It being noon, a recess was taken until 1
o'clock.
AFTERNOON SESSION.
The Court assembled at 1 p. m. and the
Mr. Gerke, called—Have lived on the Islands

five years, at Hanalei, Kauai; knew Dr. Fitch;
have heard him say that leprosy was the fourth
stage of syphilis, and that he was prepared to
cure it, that he had the cure in his pocket, that
it came from Norway; Dr. Fitch stated that he
thought he could better his condition by earning
the sum of \$300 offered for the cure of every
case of leprosy; he had been to Honolulu, and
stated that he had been appointed physician to
the branch hospital; he examined several cases
at Hanalei; one man, taken as a leper under Dr.
Fitch's advice, came back to Kauai after witness
left; he is now fireman on Kilauea plantation;
his nose is flat; all his children have flat noses;
the man always worked on the plantation; I know
of another case; we called a man
sick with consumption; he did not do so;
the man's contract was cancelled, and he was
sent to China; when two days out the man died.
Cross-examination—I distinctly remember
about the case of the fireman sent up to Honolulu
as a leper.
Mr. McIntire, called—Am a police officer in
Honolulu; know Dr. Fitch; when he first came
to Honolulu, I saw him examine a case of leprosy;
he examined several persons; he was called;
he looked at the tongues of some of the police
officers and they had leprosy in their system;
and they were not treated that I know of; they
are there yet; he examined my tongue; he said I
might have leprosy; in my opinion this was a
joke.
Cross-examination—He did not say anything
about syphilis; this was some time ago.
Dr. Rodgers, sworn—Am a physician in prac-
tice in Honolulu; heard Dr. Fitch's testimony in
regard to the dispensary during his absence on
Molokai; I think his testimony a gross perjury;
an engaged in dispensary work; in February
last Dr. Fitch went to Molokai; had no notice of
his intended absence; I went to the dispensary
in the morning; found the dispensary gate
locked; I did not attempt to enter, but reported
to the Board of Health; the Secretary was quite
unwilling to admit that it was Dr. Fitch's fault
that the dispensary was locked; I then wrote a
note to the Secretary of the Board, as follows,
February 22: "If my exclusion was not in-
cidental, and was a part of the plan of Dr.
Fitch, then Van Gleason and the other attend-
ants were all absent from their posts. I trust
that this will not happen again." The next
morning the dispensary was open and the at-
tendants there; I made certain inquiries; the re-
sult was that I wrote another note to the Sec-
retary, dated February 28; the purport of the note
was that from information I was satisfied that
the closing of the dispensary was in consequence
of Dr. Fitch's orders; had no further trouble
until Dr. Fitch went away again; was never locked
out again; the next time Dr. Fitch went away I
could not find the surgical instruments belong-
ing to the Government; three months in suc-
cession the instruments were locked up; I applied
for the position of assistant physician at the
leper settlement in December last; only heard
him say on one occasion that Mr. Gibson wanted
him to go to the settlement as resident physi-
cian; that he was the only man who knew how
to handle the lepers; he did not know whether
to go or not; I advised him to go; at that time,
up to about April, the number of individuals en-
tered upon the dispensary books as lepers was
1,000; it is not considered the proper thing for a
physician to talk about his patients having a
bothersome disease; it is considered unprofes-
sional for a physician to speak of his skill in any
particular disease.
Cross-examination—If a physician advertises
in a modest way his specialty, it is not considered
against the code of ethics; have been in practice
about ten years; am 47 years of age; I had no
key to the dispensary; do not think Dr. Fitch
had a key; Dr. Fitch was the chief, and I was re-
sponsible; he had charged; I did not hunt up
the man Nixie; did not think it was my busi-
ness to hunt the man up; do not remember that
I went there again that day; do not know
whether the dispensary was open that day or
not; I have visited the branch leper hospital;
I have not treated patients at the branch hospital,
except in following out Dr. Fitch's treatment;
I wrote the note submitted to me—"my own posi-
tion to be at \$3,000 when your \$5,000 commen-
dation; also a new commission as physician to leper
asylum and branch hospital; I believe Gibson
wants to conciliate me. My present position as
assistant to the doctor, instead of to the hospital,
is not satisfactory."

W. M. Gibson, sworn—My occupation is that
of public officer of this Kingdom; am President
of the Board of Health; my commission dates
May 20, 1883; have been present at the branch
hospital on several occasions when lepers were
discharged; was present on the occasion of the
discharge of patients in June on the joint re-
sponsibility of the physician in charge and the
Board of Health; they were discharged in con-
sequence of their presenting a clean appear-
ance; the opinion of the physician in charge was
on the printed form in use at the branch hospi-
tal; I cannot recall the exact wording of the cer-
tificate; there was present the physician in
charge; another physician who was expected to
be present was ill; in the case of Mr. Sumner,
as there was only one physician present the
members of the Board, being laymen, wished to
have a chance to examine him; at one time I
told Dr. Fitch that I thought he might have re-
sponded to the medical superintendent; the matter
has been left in abeyance; he and his wife
seemed to be willing to go; in addition to leav-
ing the dispensary it was said that nobody was
there when Dr. Fitch was not there; that people
would leave the dispensary if Dr. Fitch went
away; I suggested that something should be said
in the Advertiser about the discharge of the
persons from the branch leper hospital.
Cross-examination—I have not studied the
subject of leprosy especially; I am not familiar
with the medical treatment of physicians prior
to Dr. Fitch; I know of no cases of lepers being
discharged as cured during Dr. Emerson's ad-
ministration; I know of some forty who have
been discharged from the leper hospital; I think
Dr. Fitch's treatment has been favorable; he has
inspired confidence in the minds of the natives;
Dr. Trousseau was the physician who was ex-
pected to be present; I think his name will ap-
pear on one or more certificates of discharge; in
reference to the article, "Lepers cured and dis-
charged," I would say that I considered parts
of that article incorrect, and suggested that another
article be written modifying that one.

Dr. Brodie, recalled—Fixed the date of his
treatment of Greenwell as August, 1881, for six
weeks.
T. G. Thrum, sworn—Am publisher and pro-
prietor of the Saturday Press; published the ar-
ticle on which the libel is based for the public
good; have published articles on the subject of
leprosy several times; the article published April
22, was done so with my knowledge; I consider
the matter of leprosy as of vital interest to this
community.
By the Court—I do not consider it necessary
to get Mr. Thrum's opinion on the subject of
leprosy; every man in the community recognizes
the importance of the subject.
The defense rested here.
Recess of fifteen minutes was taken.
George Smith, called—Am a chemist, have
tested urine for one physician in Honolulu be-
sides Dr. Fitch; have put up prescriptions for
Dr. Fitch not containing iodine of potassium;
I tested one sample for acidity for Dr. Hagan.
Dr. Stangenwald, called—Am a physician and
chemist in Honolulu; know Dr. Fitch, have
visited the Branch Hospital once; spent nearly
half a day there, I saw a number of cases that
seemed to be wonderfully improved from their
former condition; in some cases I consider Dr.
Fitch's treatment legitimate; have acquaintance
with leprosy in India; however, not improved
by treatment in many cases; it is not equally
contagious in all stages; the standing of Bel-
levue Hospital is good.
Cross-examination—I do not think I know the
case of a cure by Dr. Hildebrand; I should be
very cautious how I expressed myself in regard
to a cure; I saw Mr. Sumner at the Branch
Hospital a month or two before his discharge;
he appeared very much improved, still he was a
leper; the fact is acknowledged everywhere
that it is not safe for lepers to mingle with the
community; think that the disease has remained
in abeyance ten years in India; leprosy is es-
sentially a blood disease, it may remain latent
for many years; anything that tends to lower
vital power tends to develop the disease; syphilis
could not more produce leprosy than a coconut
could an apple tree.
William Phillips, called—Have been under Dr.
Fitch's treatment for leprosy; I do not think I
had leprosy; Dr. Fitch told me I had leprosy; I
am now well.
Kauai, called—Have been at the Branch Hospi-
tal; Dr. Fitch said I had leprosy; my condi-
tion was very much improved since I first
went there; I have not been discharged; the
photograph produced is of me when I first went
there.
The defense objected to the testimony as not
rebutting the prosecution urged, however, that
the defense had endeavored to prove the truth
of charges made against Dr. Fitch in the ar-
ticle—to prove that he was a quack, charlatan,
etc.
The prosecution was sustained by the court;
the witness was ordered to show his back to the
jury.
Kapaemahu, called—Am living at the Branch
Leprosy Settlement; I was there as a leper (pho-
tograph shown to the jury as he was upon enter-
ing).
Cross-examination—Disease is left in the left
hand, the witness was directed to show his left
arm to the jury; witness said that his left arm
was very much swollen, also the right hand;
had sufficient quantity of food at the Branch
Hospital.
Meliapian, (w.), called—Am living at the
house of a man named Kama; have been under
treatment by Dr. Fitch for leprosy at the
Branch Hospital; I was there as a leper (pho-
tograph shown to the jury as he was upon enter-
ing).
Cross-examination—Disease is left in the left
hand, the witness was directed to show his left
arm to the jury; witness said that his left arm
was very much swollen, also the right hand;
had sufficient quantity of food at the Branch
Hospital.
By request of the defense the witness showed
his right arm and left hand and elbow to the
jury. The witness explained that the injury on
his left elbow was done long before he was said
to be a leper; was examined by Dr. Fitch and
Dr. McKibben; they said I must go to the
Branch Hospital.
Makanian, called—Have been under treat-
ment of Dr. Fitch for leprosy; was sent to the
Branch Hospital; I went to Dr. Fitch and asked
him if he would let me go to the Branch Hospi-
tal; no other doctor examined me; my face
was very much worse than it is now, the fore-
head was overhanging.
Chas. Trier, called—Have been under Dr.
Fitch's treatment for leprosy as I was told; Dr.
Brodie told me I had leprosy, and Dr. McKib-
ben told me I had leprosy; Dr. Trousseau ex-
amined me but did not tell me what was the matter; the result of Dr.
Fitch's treatment was very good; it took me two
days to ride to town; he gave me medicine for
one month; I went home and improved; have
been improving ever since; my toe broke out so
that I could not get a boot on; was under treat-
ment by Dr. Brodie; he did me no good; the foot
is entirely well except a small hole in one toe;
there is no numbness; before it was numb, was
not able to work before I went to him; am able
now to work.
Cross-examination—Am living at Koolau.
(The witness took off his shoe and stocking and
showed his foot to the jury); have been wear-
ing a shoe for three days; no pain from the sore;
some of the bones of the foot have come out of
both of these toes.
Policeman No. 24, called—My wife has been
in the branch hospital four days; have been mar-
ried for eight years; have lived with her up
to two months ago; they say that my wife has
leprosy; have had two doctors attending her; the
doctors said my wife had the leprosy about four
years ago; Dr. Thompson of Kohala said so; I do
not know that I have got the leprosy.
Dr. Fitch called—Heard Mr. McIntire's testi-
mony; one of the native police asked me if there
was anything the matter with me; I spoke in a
joking way; told them they had it bad; I had
no time to put on my hat; I asked Mr. McCart-
ney to make the test for me.
The witness explained the libels paper test
as being very simple.
Keka's wife was a leper, and he asked to come
over with her and be examined; he was examined
and found not to be a leper; I said that I would
like to try to cure lepers, for if I could do I
could get the reward offered by the Government;
I heard Dr. Rogers' story; I gave strict orders
that the dispensary be unlocked; the room where
the instruments were kept was locked; when I
found the dispensary locked I went around the back
to get in; never heard a word of the instru-
ments being locked up; knew nothing of it until

I found the lock of the door broken; looked up
the record because I once found some leaves
gone; see the test both ways; red litmus paper
is used for testing alkalis; tumeric is a fluid used
for testing.
By the prosecution—Gave a prescription for one
of the jurors to Mr. McCartney to put up, within
the last three days, that did not have iodine of
potash.
Dr. Trousseau, recalled by the defense—Some-
times the leper patients come to a standstill, and
with improvements in diet and mode of living,
improve without medical treatment.
Mr. Dole for the defense expressed his re-
gret at keeping the jury so long on the case,
but thought it advisable owing to the im-
portance of the case, and the interest felt
by all in the principle of the topic touch-
ed upon. He then spoke substantially as fol-
lows: We have enough information be-
fore us now to give us more interest in the
subject. This great fear not only threatens
us, not only from the branch hospital but
from every point of the compass.
Medical men are constantly expressing
themselves in order to find out all they can
of the workings of the disease; no class can
call themselves safe; the question is
whether the management of this disease is
a part of our general ignorance or not.
It is the duty of all our journalists to discuss
this subject in all its bearings, and to discuss
the methods of work carried on in their
duty.
All of the medical men, with one excep-
tion are agreed that the disease is incurable.
The disease is so loathsome that it is
worse than death; segregation and segrega-
tion alone is the only way that the disease
was driven into the corner of the old world;
this Government has been playing, and is
now playing with the subject; the specta-
cles of the King going with the Board of
Health to the leper settlement and releas-
ing those lepers who have improved in
health, with only one physician in attend-
ance is a mournful one; the whole manage-
ment of the leper question is in the hands
of one man; he has great powers; the statute
of 1894 gives him almost absolute power; he
thinks there are some two or three hundred
lepers at large; we have medical evidence
that new cases are to be met with every-
where; we meet them every day and every-
where; we find that Dr. Fitch's theories are
his own; his discovery; as an officer in
charge of the whole medical department,
for him to carry out his theory, justifies a
journalist in the strongest condemnation;
it is the duty and privilege of taxpayers to
criticise the acts of public officers; the de-
fendant has no axe to grind; he has no more
interest at stake than you have. Mr.
Thrum is on trial for his liberty; Dr. Fitch
is on trial for his honor; the Crown has no other
interest than to prevent libel, as that leads
to disorder; the case is one in which the
system of Dr. Fitch is weighed, and it re-
mains for you to decide whether the de-
fendant is not worthy of praise for his
throwing himself into the breach and de-
fending this community; the liberty of the
press is assailed in this case; nothing pro-
tects this country from despotism as well
as freedom of the press; remember that Dr.
Fitch is the only physician who says that
leprosy is not contagious; Dr. Trousseau
says he is afraid that flies and mosquitoes
carry the disease; suppose that a south
wind should carry a hundred million mos-
quitoes from the leper hospital over this
town, what would become of us? Dr. Fitch
has a diploma that bears date of March 1;
this, I claim, is not the document referred
to in the certificate given to Dr. Fitch to
practice in California; Dr. Fitch's conduct
of the dispensary seemed to be of a "dog in
the manger" policy; he examined three
hundred patients in six hours; Dr. Fitch
says he believes in segregation, and then
does not do so; why is this? Because the
man is a dishonest man, that is one with
but a weak sense of honor, and he did not
intend to carry out this plan of segregation
any more than he did to carry out the ten
commands.
His actions do not begin to carry out the
principle he sets forth in his position cannot
be carried out by his statements, he says "If
my views are correct, leprosy is not in-
fectious or contagious;" there is so much
about it that it is being more contagious that
segregation should be fully carried out; his
idea is that it is not incurable; he tried to
show you how wives have lived with hus-
bands and vice versa with immunity from
disease; segregation has not been half car-
ried out; and it is not his intention to do
so; he has failed to show you a single case
of cure according to his own statement;
there is no other doctor in the community
that supports his views; he claims the dis-
covery of leprosy with syphilis as his own
discovery, but this has yet to be proven.
The article calls him a "comparative ig-
norant pretender," and I submit to you is
not a fair criticism? When he was nine
months in the country he talked to laymen
of what he was going to do and what he
would do—that he could and would cure leprosy.
It is the talk of a "quack" and a
charlatan and of an ignorant pretender.
The evidence shows that Dr. Fitch has
pretended to have cured leprosy by taking
in people and keeping them for a time, and
then discharging them as cured. A healthy
man was brought by him from Kauai to
Honolulu, kept for a time, and afterwards
discharged as cured. And that is the way
he fills his office. He tried to get himself
made medical superintendent of the whole
group; to oust men of well-known ability.
He came down here from the Coast on a
salary of \$75 or \$125 a month, after being 10
years in practice. However, his big diploma
is not an educated physician. During
his ten years of practice he has not kept up
what he ought to have learnt during his
course of study. Dr. Trousseau says leprosy
improves with a good diet; it is a feature of
the disease that it improves on a change of
condition of living; the very choicest speci-
mens of lepers were brought here to show
what must be the condition of those that
are left in the hospital. With regard to his
eye operations he is a reckless operator.

He told Dr. Hagan he wanted to learn; he
did not use an ophthalmoscope to perform
an operation that no other doctor would at-
tempt without the instrument. Greenwell's
case was pronounced incurable by Drs.
Brodie and Trousseau, and yet Dr. Fitch
operated on him and told him he would see
in three months. Dr. Brodie said if such
an operation is successful the patient will
have vision restored immediately, if at all.
It is an imposition that such a man should
be allowed to experiment on the eye, the
most delicate part of the body; in most eye
operations, nine out of ten are successful;
with Dr. Fitch six out of seven are failures;
I suppose Dr. Fitch's education was not
very complete; he practiced dentistry, and
if he did so without study, so much the
worse for him; he is selling theories to the
world like a freebooter, he is traveling like
a quack; because he is an M. D., he is al-
lowed to practice on people with impunity;
was not Mr. Thrum justified in calling him a
pretender? I do not think he is conduct-
ing his office in an honest manner; he
quarrelled with Dr. Rodgers for his offering
to go to Molokai, when he had recommended
that a physician be stationed there. I
submit to you the case of free speech and
the case of the interests of Mr. Thrum in
this case. His liberty is in your hands;
what shall we do without the press, called
the fourth estate?
In conclusion, the learned counsel thank-
ed the jury for their kind attention to his
lengthy address, which occupied one hour
and twenty minutes in delivery.
MR. RUSSELL'S ARGUMENT.
The following is substantially a state-
ment of the remarks of Mr. Russell, counsel
for the prosecution: The counsel for the
defense said, the doctors of this country
fought this dreadful disease of leprosy at
their own risk; if this be true, which one
of them has done any more than Fitch, has
any one done as much, or half as much?
Dr. Fitch tells you, and he is not contrad-
icted, that in the dispensary they come
there to be treated for syphilis and leprosy;
when the natives knew it was the best thing
to do, they flocked there by hundreds. It was
his duty as the medical representative of
the government to encourage that which
he had instilled in the native mind, and
which was this, that the better course for
them was to come forward and be treated
for whatever diseases they had, and more
particularly leprosy, and not hide away in
caverns and grottoes, as had been their cus-
tom before the kindly influences of Fitch,
which educated them to the standard of
offering themselves for treatment; I con-
tend that Fitch performed what that good
judgment dictated; I contend that his treat-
ment was just such as to nurse the native
mind, and no man has cultivated that
principle more than he. Is that reckless
treatment?
Reference was made to the fact that doc-
tors meet lepers in the street every day;
the only evidence on that point was given
by Dr. Emerson. He saw two new acquaint-
ances, and they were lepers in sixty days.
It is said that Fitch's theory was his own.
I don't pretend that a man's success is a
proof of his ability, because hundreds of
the ablest men have been failures; the at-
tempt is made to drag Fitch into disrepute
in comparing him to Columbus, who dis-
covered America; Jenner was knighted for
his discovery of inoculation as a preventive
of small-pox.
A great deal of stress was laid on the case
of Miss Agnes Aylett, a year ago she went
to Dr. Fitch, he told her he thought she
had leprosy and he treated her for it; she is
not a leper; she is a healthy woman; the
attorney who told you that she was a leper
that was on her person have disappeared
under the treatment of Dr. Fitch; she has
not suspended a single day in her vocation
of schoolmistress; would any of you sup-
pose from her appearance that she was a
pronounced leper. Dr. Emerson said in the
early stages of leprosy it was less con-
tagious than in its advanced stage.
As to the independence of the press I am
at a loss to understand what it is intended to
convey. If the "liberties of the press" are
meant, that, I understand, if you rank the
fourth estate greater than the government;
then the government had better collapse.
There has been nothing unfavorable present-
ed to you that affects the diploma of Dr.
Fitch. The vigor he has shown in his
former life, in order to attain his
present position, is highly com-
mendable. He went onward and on-
ward until he reached the point that he
sought to achieve. Reference has been
made to his methods of dispensing. Dr.
Hagan told you what occurred at the dis-
pensary during the two or three visits that
he made. There was not an instance shown
where a mistake had occurred through the
want of attention on the part of Dr.
Fitch. A good deal has been said about
letting these lepers go from the Branch
Hospital amongst the community; it is
not exclusively the work of Dr. Fitch; Dr.
Trousseau also presented the "lepers" as
five persons to leave the Branch Hospi-
tal; he did not say they were persons that
were sent there by mistake. Allowing these
persons to go abroad is not in conflict with
Fitch's theory. If it be true that it is not
dangerous for Miss Aylett to be abroad,
how could it be said that it was dangerous
for Sumner to be at large? Fitch does not
say that every stage is entirely non-con-
tagious. Four or five persons were presented
here to illustrate Dr. Fitch's theory. The
photographs also presented were taken at
the time of their entry into the hospi-
tal; and I claim it showed a wide gap be-
tween their former and present condi-
tions. Instead of being a sorry
picture; it is a picture of which Dr. Fitch ought
to be proud; of which the community ought
to be proud. Can it be said of a man that at-
tains such results that he is a "quack"?
(The learned counsel analysed in detail the
various cases that had been presented to the jury
during the afternoon, showing that the theo-
ries had been carried out and the means had
been effectual in removing the previous ghastly

appearance of the patient.) I also referred to
the testimony of Dr. Rodgers, with regard to the
dispensary being closed on a certain occasion;
also to the operation on the eye by Dr. Fitch.
How far does all that has been shown and told
you convince you that Fitch is a "charlatan"
and a "quack"? The article in question, in-
stead of representing the liberties of the press,
represents the abuse of the liberties of the press.
The press is a power. What has Mr. Thrum done
towards stamping out this dire calamity from our
island? Which of them is the quack, Thrum or
Fitch? "By their deeds ye shall know them."
Has Thrum presented any tangible evidences of
his theory? I agree that if the liberties of the
press were muzzleed it would be detrimental to
the public interests. Is not Fitch the victim of
a despotism of the press, and for which he
brings the press before the bar for justice? Mr.
Daggett, Minister Resident of our powerful
neighbor, the United States, in his introductory
remarks in opening the exercises of the Ameri-
cans a few days ago, July 4th, was pleased to
say: "I see before me representatives of nearly
all the nations of the world—Germans,
Scandinavians, Englishmen, Irishmen and the
gentle Hawaiian, who comes here with his kindly
aloha to welcome the strangers within his gates."
If Mr. Daggett had ransacked the voca-
bulary he could not have found a more appro-
priate word than "gentle" to describe the native
character. Shall not we, as strangers within his
gates, extend our kindly "aloha" to him, and
endeavor by every art to add
ward off and finally, by every energy to
which threatens his national existence? "Take
it that it is a duty incumbent on every one of us
to do so." Has not Dr. Fitch done this? What
has Mr. Thrum done looking to this conclusion?
Comparatively nothing, save the writing and pub-
lishing of such articles as those from the com-
fortable editorial room, while Fitch exposes him-
self to many inconveniences of travel and the risk
of being poisoned himself by this terrible malady.
I ask you to consider the whole subject, not only
from a personal standpoint, but from a national
standpoint, and there is nothing left for me but
to add my thanks for your patience and attention,
and I leave the case to you.
His Honor, the Chief Justice summed up as
follows:
Gentlemen: This trial has been protracted
longer than usual, and particular attention has
been paid to it throughout by large audiences.
The Court has frequently tried cases of murder
and other heinous crimes, in which no interest
whatever was evinced by the public; in fact, not
even a newspaper reporter was present, whereas
this case has excited particular interest for two
days. It has been characterized as a case of
national character. With this view the Court
sympathizes. It is difficult to conceive a
question of more importance than a question of
national health. In order to have a correct idea
of the issues you have to try, I shall present them
to you separately. It is a criminal prosecution,
and one which the law justifies. It is not an
action for slander. Slander consists of words
spoken. Libel has been established as a criminal
offense in our Penal Code since 1859. I